Remarks

This Amendment After Final is in response to the Final Office Action dated **January 25, 2005**. In the Office Action, claim 49 was found to contain allowable subject matter. Claims 50, 52-53 were rejected under 35 USC § 102(e). Claims 46-48 and 58 were rejected under 35 USC § 102(e). Claim 59 was rejected under 35 USC § 102(e). Claims 39-41, 43-45, 54 and 56-57 were rejected under 35 U.S.C. § 103(a).

New claims 60 and 61 have been added. No new matter has been added.

The paragraph numbers below correspond to those of the Office Action.

1. 35 USC § 102

Claims 50, 52-53 were rejected under 35 USC § 102(e) as being anticipated by Kanesaka et al. (5,911,754). Kanesaka is not prior art to any of these claims.

Claims 50, 52 and 53 are entitled to the August 3, 1995 filing date of the parent application, 08/511076 (issued as US 6818014). See, for example, Fig. 4 of the above application corresponding to Fig. 15 of the instant application. Therefore, Kanesaka is not prior art as to these two claims. Withdrawal of the rejection is respectfully requested.

2. 35 USC § 102

Claims 46-48 and 58 were rejected under 35 USC § 102(e) as being anticipated by Mathis et al. (6,129,755). Withdrawal of the rejection is respectfully requested.

Claims 46-48 and 58 are entitled at least to the August 3, 1995 filing date of the priority application. See, for example, Fig. 4 of priority application 08/511076 which corresponds to Fig. 15 of the instant application. Mathis has a 102(e) date of January 9, 1998. As such, Mathis is not prior art to claims 46-48 and 58.

Further as to claim 48, Applicant notes that the interconnecting elements are not linear as required by the claim.

Withdrawal of the rejection is respectfully requested.

3. 35 USC § 102

Claim 59 was rejected under 35 USC § 102(e) as being anticipated by Berry et al.

(6,231,598). Withdrawal of the rejection is respectfully requested.

Claim 59 includes the recitation that the first and second serpentine circumferential bands are arranged such that one second serpentine circumferential band is provided between every two successive first serpentine bands and connected thereto, and one first serpentine circumferential band is provided between every two successive second serpentine bands and connected thereto.

This feature is not disclosed by Berry. The Berry stent has a basic pattern of two interconnected bands of one type followed by an interconnected band of a second type. The Berry stent does not have one second band between every two first bands and vice versa because the stent has abutting first bands.

At least for this reason, claim 59 is patentable over Berry.

1. 35 USC § 103

Claims 39-41, 43-45, 54 and 56-57 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Mathis et al. in view of Roubin et al. (6,106,548).

As discussed in the accompanying declaration, Mathis is not prior as to any of these claims. Withdrawal of the rejection is requested.

Allowable Subject Matter

Claim 49 has been found to contain allowable subject matter but is objected to as being dependent upon a rejected base claim.

Conclusion

In light of the above comments, claims 39-41, 43-50, 52-54 and 56-59 are believed to be in condition for allowance. Notification to that effect is respectfully requested.

Respectfully submitted,

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Date: July 25, 2005

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:	Brown et al.
Application No.:	09/197,278
Filed:	November 20, 1998
For:	Improved Longitudinally Flexible Stent
Examiner:	L. Ngo
Group Art Unit:	3731

Director Of Patents and Trademarks
Washington, D.C. 20231

Docket No.: S63.2-6769

DECLARATION OF TIMOTHY J. LEY

I Timothy J. Ley declare that:

1. I am an inventor of the subject matter of claims 39-41, 43-45, 54 and 56-57 of the above-titled patent application.

2. I am making this Declaration in order to establish a completion of the invention of the subject matter of claims 39-41, 43-45, 54 and 56-57 in this country before the January 9, 1998 filing date of US 6,129,755 issued to Mathis, through conception and a reduction to practice of claimed aspects of the invention prior to January 9, 1998.

3. Prior to January 9, 1998, I conceived and reduced the invention of claims 39-41, 43-45, 54 and 56-57 to practice in the U.S. A copy of a photograph of a stent, marked Exhibit A, accompanies this declaration. The stent shown in Exhibit A was made and photographed prior to January 9, 1998.

4. All of the features of claims 39-41, 43-45, 54 and 56-57 are present in the stent of Exhibit A. In particular:

As to claim 39, the stent of Exhibit A has first, second and third undulating band-like elements which are separated by a gap which is shorter in longitudinal length than the undulating band-like elements. A plurality of substantially linear first and second interconnecting elements (each of which has ends which are circumferentially and longitudinally offset from one another) extend between the undulating band-like elements. Interconnecting elements which are circumferentially adjacent one another are separated by a plurality of turns along each of the undulating band-like elements which they connect. The number of peaks on the first undulating band-like element exceeds the number of first interconnecting elements. The second interconnecting elements extend between peaks on the second undulating band-like element and troughs on the third undulating band-like element. The number of peaks on the second undulating band-like element exceeds the number of second interconnecting elements. The number of peaks of the first undulating band-like element separating circumferentially adjacent first interconnecting elements is less than the number of peaks of the second undulating band-like element separating circumferentially adjacent second interconnecting elements.

As to claim 40, many of the features are discussed above. Also, the stent of Exhibit A includes third interconnecting elements extending between peaks on the third undulating band-like element and troughs on a fourth undulating band-like element. The number of peaks of the first undulating band-like element separating circumferentially adjacent first interconnecting elements is less than the number of peaks of the second undulating band-like element separating circumferentially adjacent second interconnecting elements. As seen in Exhibit A, each second interconnecting element is separated from the third interconnecting element nearest to it by a single peak of the third undulating band-like element and a single trough of the third undulating band-like element.

As to claim 41, as shown in Exhibit A, one third interconnecting element extends from every third peak of the third undulating band-like element.

As to claims 43 and 44, the interconnecting elements shown in Exhibit A are substantially linear.

As to claim 45, many of the features are discussed above. Also, as shown in Exhibit A, the first undulating band-like element is characterized by a first amplitude and the second

undulating band-like element is characterized by a second amplitude, the first amplitude greater than the second amplitude.

As to claim 54, the stent of Exhibit A includes the recited first, second and third undulating band-like elements disposed sequentially along the length of the stent as well as the recited substantially linear interconnecting elements extending between undulating band-like elements. The stent includes adjacent first interconnecting elements which are connected to the other via a first path along the first undulating band-like element, the first path spanning a plurality of peaks and troughs and being the shortest path along the first undulating band-like element between adjacent first interconnecting elements. The stent includes second interconnecting elements which are adjacent one another which are connected to each other via a second path along the second undulating band-like element. The second path has a second length and spans a plurality of peaks and troughs and is the shortest path along the second undulating band-like element between adjacent second interconnecting elements. The first path length is different from the second path length. Each of the cells between the first and third undulating band-like elements is bounded by two interconnecting elements, a portion of the second undulating band and a portion of either the first or the third undulating band-like element.

Further as to claim 56, as shown in Exhibit A, the first and second undulating band-like elements are characterized by different amplitudes.

Further as to claim 57, as shown in Exhibit A, the first path length is longer than the second path length.

5. I hereby declare that all statements made herein of my knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Timothy J. Ley

7/20/05
Date

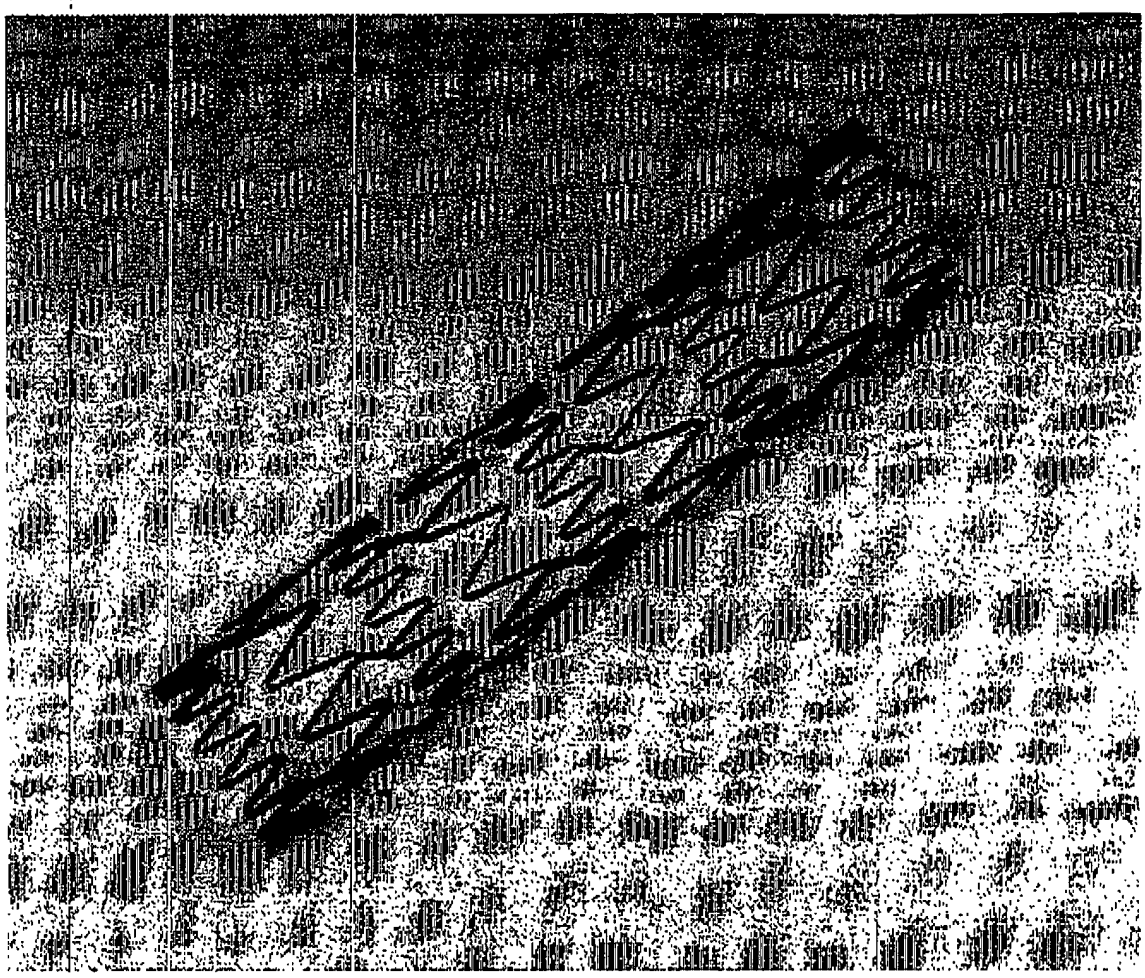

Exhibit A